

## Department of Justice

## § 16.90

These exemptions apply only to the extent that information in this system of records is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

(d) Only that information compiled for criminal or civil law enforcement purposes is exempted for the reasons set forth from the following subsections:

(1) *Subsections (c)(3)*. This system occasionally contains investigatory material based on complaints of actual or alleged criminal or civil violations. To provide the subject of a criminal or civil matter or case under investigation with an accounting of disclosures of records concerning him/her would inform that individual of the existence, nature, or scope of that investigation, and thereby seriously impede law enforcement efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties and civil remedies.

(2) *Subsections (c)(4)*. This subsection is inapplicable to the extent that an exemption is being claimed for subsection (d).

(3) *Subsection (d)*. Disclosure of information relating to the investigation of complaints of alleged violation of criminal or civil law could interfere with the investigation, reveal the identity of confidential sources, and result in an unwarranted invasion of the privacy of others. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously re-investigated.

(4) *Subsection (e)(1)*. In the course of criminal or civil investigations, cases, or matters, the Civil Division may obtain information concerning the actual or potential violation of laws which are not strictly within its statutory authority. In the interest of effective law enforcement, it is necessary to retain such information since it may establish patterns of criminal activity or avoidance of other civil obligations and provide leads for Federal and other law enforcement agencies.

(5) *Subsection (e)(5)*. In compiling information for criminal law enforcement purposes, the accuracy, com-

pleteness, timeliness and relevancy of the information obtained cannot always be immediately determined. As new details of an investigation come to light, seemingly irrelevant or untimely information may acquire new significance and the accuracy of such information can often only be determined in a court of law. Compliance with this requirement would therefore restrict the ability of government attorneys in exercising their judgment in developing information necessary for effective law enforcement.

(e) The following system of records is exempt pursuant to 5 U.S.C. 552a (j)(2) and (k)(2) from subsection (d):

Congressional and Citizen Correspondence File, JUSTICE/CIV-007.

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

(f) Only that portion of the Congressional and Citizen Correspondence File maintained by the Communications Office which consists of criminal or civil investigatory information is exempted for the reasons set forth from the following subsection:

(1) *Subsection (d)*. Disclosure of investigatory information would jeopardize the integrity of the investigative process, disclose the identity of individuals who furnished information to the government under an express or implied promise that their identities would be held in confidence, and result in an unwarranted invasion of the privacy of others. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

[Order No. 27-88, 54 FR 113, Jan. 4, 1989]

### § 16.90 Exemption of Civil Rights Division Systems.

(a) The following system of records is exempt from 5 U.S.C. 552a(d):

(1) Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission (JUSTICE/CRT-007).

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This exemption applies to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (d) because this system contains investigatory material compiled by the Equal Opportunity Commission pursuant to its authority under 42 U.S.C. 2000e-8, 42 U.S.C. 2000e-5(b), 42 U.S.C. 2000e-8(e), and 44 U.S.C. 3508 make it unlawful to make public in any manner whatsoever any information obtained by the Commission pursuant to the authority.

(c) The following system of records is exempt from 5 U.S.C. 552a(c)(3), (d) and (g):

(1) Central Civil Rights Division Index File and Associated Records (JUSTICE/CRT-001).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting for disclosure pursuant to the routine uses published for this system may enable the subject of an investigation to gain valuable information concerning the nature and scope of the investigation and seriously hamper law enforcement efforts.

(2) From subsection (d) because freely permitting access to records in this system would compromise ongoing investigations and reveal investigatory techniques. In addition, these records may be subject to protective orders entered by federal courts to protect their confidentiality. Many of the records contained in this system are copies of documents which are the property of state agencies and were obtained under express or implied promises to strictly protect their confidentiality.

(3) From subsection (g) because exemption from the provision of subsection (d) will render the provisions on suits to enforce (d) inapplicable.

(e) The following system of records is exempt from 5 U.S.C. 552a (c)(3), (d), and (g):

(1) Freedom of Information/Privacy Act Records (JUSTICE/CRT-010).

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

(f) Because this system contains Department of Justice civil and criminal law enforcement, investigatory records, exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting may enable the subject of an investigation to gain valuable information concerning the nature and scope of the investigation and seriously hamper law enforcement efforts.

(2) From subsection (d) because access to records in this system would compromise ongoing investigations and reveal investigative techniques. In addition, certain of these records may be subject to protective orders entered by Federal courts to protect their confidentiality, and many are copies of documents which are the property of State agencies and were obtained under express or implied promises to strictly protect their confidentiality. This system also contains investigatory material compiled by the Equal Opportunity Commission pursuant to its authority under 42 U.S.C. 2000e-8. Provisions of 42 U.S.C. 2000e-5(b), 42 U.S.C. 2000e-8(e), and 44 U.S.C. 3508 make it unlawful to make public in any manner whatsoever any information obtained by the Commission pursuant to the authority. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(3) From subsection (g) because exemption from subsection (d) will render the provisions on suits to enforce subsection (d) inapplicable.

[Order No. 645-76, 41 FR 12640, Mar. 26, 1976, as amended by Order No. 688-77, 42 FR 10000, Feb. 18, 1977; Order No. 8-82, 47 FR 44256, Oct. 7, 1982; Order No. 6-86, 51 FR 15477, Apr. 24, 1986]